

## 2005 DRAFTING REQUEST

### Bill

Received: 01/14/2005

Received By: **rchampag**

Wanted: **Soon**

Identical to LRB:

For: **Terri McCormick (608) 266-7500**

By/Representing: **herself**

This file may be shown to any legislator: **NO**

Drafter: **rchampag**

May Contact:

Addl. Drafters: **chanaman**

Subject: **Employ Pub - employee benefits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.McCormick@legis.state.wi.us**

Carbon copy (CC:) to:

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Prohibited subjects of collective bargaining under MERA

---

### Instructions:

Prohibited subject provisions from 05-1496, but do not exclude school districts, expand substantially similar provision to also include a cost savings requirement, and create new prohibited subject that employer can unilaterally change health insurance provisions in contract for cost savings reasons.

---

### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rchampag 02/07/2005	wjackson 02/08/2005		_____			S&L
/1			jfrantze 02/09/2005	_____	sbasford 02/09/2005	mbarman 05/11/2005	S&L
/2	rchampag 06/09/2005	wjackson 06/09/2005	rschluet 06/09/2005	_____	lnorthro 06/09/2005	lnorthro 06/09/2005	

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

FE Sent For:

<END>

## 2005 DRAFTING REQUEST

### Bill

Received: 01/14/2005

Received By: **rchampag**

Wanted: **Soon**

Identical to LRB:

For: **Terri McCormick (608) 266-7500**

By/Representing: **herself**

This file may be shown to any legislator: **NO**

Drafter: **rchampag**

May Contact:

Addl. Drafters: **chanaman**

Subject: **Employ Pub - employee benefits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.McCormick@legis.state.wi.us**

Carbon copy (CC:) to:

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Prohibited subjects of collective bargaining under MERA

---

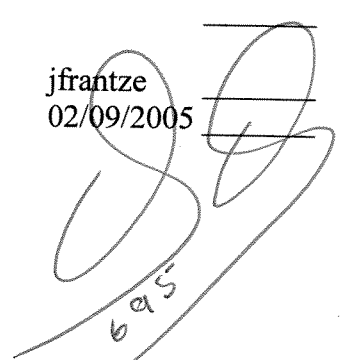
### Instructions:

Prohibited subject provisions from 05-1496, but do not exclude school districts, expand substantially similar provision to also include a cost savings requirement, and create new prohibited subject that employer can unilaterally change health insurance provisions in contract for cost savings reasons.

---

### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rchampag 02/07/2005	wjackson 02/08/2005					S&L
/1		12 WJG/9	jfrantze 02/09/2005		sbasford 02/09/2005	mbarman 05/11/2005	



FE Sent For:

## **2005 DRAFTING REQUEST**

### **Bill**

Received: **01/14/2005**

Received By: **rchampag**

Wanted: **Soon**

Identical to LRB:

For: **Terri McCormick (608) 266-7500**

By/Representing: **herself**

This file may be shown to any legislator: **NO**

Drafter: **rchampag**

May Contact:

Addl. Drafters: **chanaman**

Subject: **Employ Pub - employee benefits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.McCormick@legis.state.wi.us**

Carbon copy (CC:) to:

---

### **Pre Topic:**

No specific pre topic given

---

### **Topic:**

Prohibited subjects of collective bargaining under MERA

---

### **Instructions:**

Prohibited subject provisions from 05-1496, but do not exclude school districts, expand substantially similar provision to also include a cost savings requirement, and create new prohibited subject that employer can unilaterally change health insurance provisions in contract for cost savings reasons.

---

### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rchampag 02/07/2005	wjackson 02/08/2005					S&L
/1			jfrantze 02/09/2005		sbasford 02/09/2005		

FE Sent For:

**2005 DRAFTING REQUEST**

**Bill**

Received: **01/14/2005**

Received By: **rchampag**

Wanted: **Soon**

Identical to LRB:

For: **Terri McCormick (608) 266-7500**

By/Representing: **herself**

This file may be shown to any legislator: **NO**

Drafter: **rchampag**

May Contact:

Addl. Drafters: **chanaman**

Subject: **Employ Pub - employee benefits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.McCormick@legis.state.wi.us**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Prohibited subjects of collective bargaining under MERA

---

**Instructions:**

Prohibited subject provisions from 05-1496, but do not exclude school districts, expand substantially similar provision to also include a cost savings requirement, and create new prohibited subject that employer can unilaterally change health insurance provisions in contract for cost savings reasons.

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rchampag	1 w/ 2/8	<i>[Signature]</i>	<i>[Signature]</i> 2/9			

FE Sent For:

<END>



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-1496/2  
CMH/RC/PK/MS/JTK:wlj:pg

*SSA*

2005 BILL

LRB-1721/1

RAC & CMH &  
PJK:WLJ:

*- regn. cal*

1 AN ACT *to renumber and amend* 62.61 and 66.0137 (5); *to amend* 40.02 (25)  
2 (bm), 66.0137 (1), 111.70 (1) (a), 111.70 (4) (cm) 7r. d., 111.70 (4) (cm) 7r. e., 111.70  
3 (4) (cm) 7r. f., 111.70 (4) (cm) 7r. g., 111.70 (4) (cm) 7r. h. and 632.797 (5); and  
4 *to create* 16.973 (10), 16.973 (11), 62.61 (2), 62.61 (3), 66.0137 (5) (b) and (c),  
5 111.70 (4) (c) 2m., 111.70 (4) (jm) 4m., 111.70 (4) (n), 111.70 (4) (o), 111.77 (6)  
6 (dm), 601.41 (10), 601.41 (11), 601.41 (12), 610.66 and 632.797 (1) (d) of the  
7 statutes; **relating to:** collective bargaining over health care coverage for  
8 municipal employees *and* allowing municipal employers to change health care  
9 coverage plan providers; ~~factors considered in rendering a collective bargaining~~  
10 ~~arbitration decision; requiring the Group Insurance Board to prepare a report~~  
11 ~~on offering group health insurance plans at different cost levels to local~~  
12 ~~government employers and employees; requiring the Group Insurance Board~~  
13 ~~to offer for purchase long-term care insurance policies to employees of local~~  
14 ~~governments; disclosure of health insurance claims experience of local~~

**BILL**

1 ~~governmental units; bids submitted to local governmental units for health~~  
2 ~~insurance; requiring the Commissioner of Insurance to promulgate rules~~  
3 ~~establishing uniform forms for local government health care coverage requests~~  
4 ~~for proposals and health claims experience and summarizing benefits provided~~  
5 ~~under health care benefit plans; and granting rule-making authority.~~

***Analysis by the Legislative Reference Bureau***

This bill makes several changes to health insurance plans and other benefits offered to local government employees.

***Collective bargaining***

Under the Municipal Employment Relations Act (MERA), all matters relating to wages, hours, and conditions of employment are subject to collective bargaining. This bill prohibits bargaining over the selection of a health care coverage plan if the employer offers to enroll its employees in a plan provided to local government employers by the Group Insurance Board or in a plan that is substantially similar to the plan offered by the Group Insurance Board. Under the bill, the Office of the Commissioner of Insurance (OCI) must promulgate rules that set out standardized benefits under health care coverage plans and that may be used for determining whether any health care coverage plan is similar to the plan offered by the Group Insurance Board.

In addition, the bill provides that under MERA any employer may unilaterally change its employees' health care coverage plan provider if the benefits remain substantially the same and if either the actual providers of the health care are the same or cost savings will result from changing the health care coverage plan provider. The bill requires, however, that any employer savings that result from changing the health care coverage plan provider must be used to increase salaries paid to the employees affected by the change.

~~Under MERA, for labor disputes that go to arbitration, the arbitrator or arbitration panel must consider a variety of factors, some of which are given "greatest weight"; some of which are given "greater weight"; and some of which must simply be considered. Among the factors that must simply be considered are the wages, hours, and conditions of employment of employees providing similar services and of employees in public and in private employment in the same and comparable communities. This bill provides that the arbitrator or arbitration panel must look at the wages, hours, and conditions of employment of the employees as a whole and not in isolation. In addition, another factor that must be considered is the average consumer prices for goods and services, commonly known as the cost of living. The bill provides that included in this cost of living factor are the average housing costs and other costs significantly affecting the quality of life.~~

**BILL*****Health insurance plan study***

This bill requires the Group Insurance Board to study the feasibility of developing a group health insurance plan for local government employers with at least three cost levels and a low-cost health insurance plan that provides coverage for catastrophic illness or injury.

***Long-term care insurance***

Under current law, the Group Insurance Board offers to state employees a long-term care insurance plan in which a state employee may purchase for himself or herself or for his or her spouse or parent or spouse's parent long-term care insurance. This bill requires the Group Insurance Board to offer this insurance to other government employers and their employees.

***Solicitation of health insurance bids***

Current law authorizes local governmental employers (which includes cities, villages, towns, counties, school districts, sewerage districts, drainage districts, and any other political subdivisions of the state) to offer health care coverage to their employees and employees' spouses and dependents. This bill requires OCI to promulgate rules developing a uniform form that a local government must use to solicit bids for its employees' health care coverage; requires insurers to use the form to submit bids to local governments; requires local governments that receive the bids to submit information about the bids to the Department of Administration (DOA); and requires DOA to make the information available to the public.

***Health claims experience***

Under current law, an insurer must provide aggregate claims experience information, upon request, to the policyholder of a group health insurance policy and to an employer that provides health care coverage to its employees through a multiple-employer trust. This requirement applies only if the policyholder or employer provides coverage under the policy for at least 50 individuals, excluding individuals who are covered as dependents. Information must be provided for the current policy period and for up to two immediately preceding policy periods if the insurer provided coverage during those periods, but information is not required to be provided for any period of time that is before 18 months before the date of the request. The insurer must provide the information within 30 days after receiving the request and may not charge for providing the information one time in a 12-month period but may charge for additional requests during that time period.

This bill does the following:

1. Requires a local governmental unit, which includes a city, village, town, county, school district, sewerage district, drainage district, and any other political subdivision of the state, that requests aggregate group health claims experience that an insurer is required to provide to notify DOA when the local governmental unit requests the information.

2. Requires an insurer to provide to DOA the aggregate group health claims experience information that it provides to a local governmental unit at the same time that the insurer provides the information to the local governmental unit.



**BILL**

3. Requires OCI to develop, by rule, a uniform form for insurers to use when providing aggregate group health claims experience information to local governmental units and requires insurers to use the form when providing the information to local governmental units and to DOA.

4. Requires DOA to make the aggregate group health claims experience information that it receives from insurers available to the public.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 16.973 (10) of the statutes is created to read:

16.973 (10) Make available to the public without charge to local governmental units, the information received from local governmental units under s. 66.0137 (5) (c) in a manner determined by the department to enable the general public to make meaningful comparisons of the bids received. The department shall specify the format that local governmental units shall use in submitting the information and shall make information about the format readily available to local governmental units.

SECTION 2. 16.973 (11) of the statutes is created to read:

16.973 (11) Make available to the public the aggregate group health claims experience information received from insurers under s. 632.797 (1) (d) in the manner determined by the department.

SECTION 3. 40.02 (25) (bm) of the statutes is amended to read:

40.02 (25) (bm) For the purpose of long-term care insurance, in addition to any state annuitant under s. 40.02 (54m), any employee of the state who received a salary or wages from an employer in the previous calendar year, and any participant who was at one time employed by the state who receives a lump sum payment under s.

**BILL**

1 40.25 (1) which would have been an immediate annuity if paid as an annuity, if the  
2 employee is a resident of this state and meets all of the requirements for an  
3 immediate annuity including filing of an application, whether or not final  
4 administrative action has been taken.

5 **SECTION 4.** 62.61 of the statutes is renumbered 62.61 (1) and amended to read:

6 62.61(1) The common council of a 1st class city may, by ordinance or resolution,  
7 provide for, including the payment of premiums of, general hospital, surgical and  
8 group insurance for both active and retired city officers and city employees and their  
9 respective dependents in private companies, or may, by ordinance or resolution, elect  
10 to offer to all of its employees a health care coverage plan through a program offered  
11 by the group insurance board under ch. 40. Municipalities which elect to participate  
12 under s. 40.51 (7) are subject to the applicable sections of ch. 40 instead of this section  
13 subsection. Contracts for insurance under this section subsection may be entered  
14 into for active officers and employees separately from contracts for retired officers  
15 and employees. Appropriations may be made for the purpose of financing insurance  
16 under this section subsection. Moneys accruing to a fund to finance insurance under  
17 this section subsection, by investment or otherwise, may not be diverted for any other  
18 purpose than those for which the fund was set up or to defray management expenses  
19 of the fund or to partially pay premiums to reduce costs to the city or to persons  
20 covered by the insurance, or both.

21 **SECTION 5.** 62.61 (2) of the statutes is created to read:

22 62.61 (2) If a 1st class city solicits bids to provide health care coverage under  
23 sub. (1), the 1st class city shall use the uniform local governmental health care  
24 coverage request-for-proposals form developed by the commissioner of insurance  
25 under s. 601.41 (10) to solicit the bids.

**BILL****SECTION 6**

**SECTION 6.** 62.61 (3) of the statutes is created to read:

**62.61 (3)** A 1st class city shall submit information about a bid it receives to the department of administration in the format specified under s. 16.973 (10) no later than 30 days after the bid is received or, in the case of a sealed bid, no later than 30 days after the bid is opened. At the time the information is submitted to the department of administration, the 1st class city shall do at least one of the following:

(a) Post the same information on the city's Internet site, if any.

(b) Post notice on the city's Internet site, if any, that the information has been submitted to the department of administration.

(c) Post or publish as a class 1 notice under ch. 985 a statement that the information has been submitted to the department of administration and will be available on the state's Internet site, if any, or a statement that the information may be viewed at a specified location in the 1st class city, or both.

**SECTION 7.** 66.0137 (1) of the statutes is amended to read:

**66.0137 (1) DEFINITION.** In this section, "local governmental unit" means a city, village, town, county, school district ~~(as enumerated in s. 67.01 (5))~~, sewerage district, drainage district, and, ~~without limitation because of enumeration~~, any other political subdivision of the state.

**SECTION 8.** 66.0137 (5) of the statutes is renumbered 66.0137 (5) (a) amended to read:

**66.0137 (5) (a)** The state or a local governmental unit may provide for the payment of premiums for hospital, surgical and other health and accident insurance and life insurance for employees and officers and their spouses and dependent children. A local governmental unit may also provide for the payment of premiums for hospital and surgical care for its retired employees. In addition, a local

**BILL**

1 governmental unit may, by ordinance or resolution, elect to offer to all of its  
2 employees a health care coverage plan through a program offered by the group  
3 insurance board under ch. 40. A local governmental unit that elects to participate  
4 under s. 40.51 (7) is subject to the applicable sections of ch. 40 instead of this  
5 subsection paragraph.

6 **SECTION 9.** 66.0137 (5) (b) and (c) of the statutes are created to read:

7 66.0137 (5) (b) If a local governmental unit solicits bids to provide health care  
8 coverage under par. (a), the local governmental unit shall use the uniform local  
9 governmental health care coverage request-for-proposals form developed by the  
10 commissioner of insurance under s. 601.41 (10) to solicit the bids.

11 (c) A local governmental unit shall submit information about a bid it receives  
12 to the department of administration in the format specified under s. 16.973 (10) no  
13 later than 30 days after the bid is received or, in the case of a sealed bid, no later than  
14 30 days after the bid is opened. At the time the information is submitted to the  
15 department of administration, the local governmental unit shall do at least one of the  
16 following:

- 17 1. Post the same information on the local government's Internet site, if any.
- 18 2. Post notice on the local government's Internet site, if any, that the  
19 information has been submitted to the department of administration and will be  
20 available on the state's Internet site, if any.
- 21 3. Post or publish as a class 1 notice under ch. 985 a statement that the  
22 information has been submitted to the department of administration and will be  
23 available on the state's Internet site, if any, or a statement that the information may  
24 be viewed at a specified location in the local governmental unit, or both.

25 **SECTION 10.** 111.70 (1) (a) of the statutes is amended to read:

**BILL****SECTION 10**

111.70 (1) (a) "Collective bargaining" means the performance of the mutual obligation of a municipal employer, through its officers and agents, and the representative of its municipal employees in a collective bargaining unit, to meet and confer at reasonable times, in good faith, with the intention of reaching an agreement, or to resolve questions arising under such an agreement, with respect to wages, hours, and conditions of employment, and with respect to a requirement of the municipal employer for a municipal employee to perform law enforcement and fire fighting services under s. 61.66, except as provided in sub. (4) (m), (n), and (o) and s. 40.81 (3) and except that a municipal employer shall not meet and confer with respect to any proposal to diminish or abridge the rights guaranteed to municipal employees under ch. 164. The duty to bargain, however, does not compel either party to agree to a proposal or require the making of a concession. Collective bargaining includes the reduction of any agreement reached to a written and signed document. The municipal employer shall not be required to bargain on subjects reserved to management and direction of the governmental unit except insofar as the manner of exercise of such functions affects the wages, hours, and conditions of employment of the municipal employees in a collective bargaining unit. In creating this subchapter the legislature recognizes that the municipal employer must exercise its powers and responsibilities to act for the government and good order of the jurisdiction which it serves, its commercial benefit, and the health, safety and welfare of the public to assure orderly operations and functions within its jurisdiction, subject to those rights secured to municipal employees by the constitutions of this state and of the United States and by this subchapter.

~~SECTION 11. 111.70 (4) (c) 2m. of the statutes is created to read:~~

**BILL**

1           111.70 (4) (c) 2m. 'Factors used in arbitration to settle disputes.' If the parties  
2           to a dispute agree to have the commission or any other appropriate agency serve as  
3           arbitrator to resolve the dispute and if the commission or any other appropriate  
4           agency compares the wages, hours, and conditions of employment of the municipal  
5           employees involved in the arbitration proceedings with the wages, hours, and  
6           conditions of employment of any other employees, the commission or other  
7           appropriate agency shall compare the wages, hours, and conditions of employment  
8           as a whole, rather than as individual elements.

9           **SECTION 12.** 111.70 (4) (cm) 7r. d. of the statutes is amended to read:

10           111.70 (4) (cm) 7r. d. Comparison of wages, hours, and conditions of  
11           employment of the municipal employees involved in the arbitration proceedings with  
12           the wages, hours, and conditions of employment of other employees performing  
13           similar services. In making this comparison, the arbitrator or arbitration panel shall  
14           consider wages, hours, and conditions of employment as a whole, rather than as  
15           individual elements.

16           **SECTION 13.** 111.70 (4) (cm) 7r. e. of the statutes is amended to read:

17           111.70 (4) (cm) 7r. e. Comparison of the wages, hours, and conditions of  
18           employment of the municipal employees involved in the arbitration proceedings with  
19           the wages, hours, and conditions of employment of other employees generally in  
20           public employment in the same community and in comparable communities. In  
21           making this comparison, the arbitrator or arbitration panel shall consider wages,  
22           hours, and conditions of employment as a whole, rather than as individual elements.

23           **SECTION 14.** 111.70 (4) (cm) 7r. f. of the statutes is amended to read:

24           111.70 (4) (cm) 7r. f. Comparison of the wages, hours, and conditions of  
25           employment of the municipal employees involved in the arbitration proceedings with

**BILL****SECTION 14**

1 the wages, hours, and conditions of employment of other employees in private  
2 employment in the same community and in comparable communities. In making  
3 this comparison, the arbitrator or arbitration panel shall consider wages, hours, and  
4 conditions of employment as a whole, rather than as individual elements.

5 **SECTION 15.** 111.70 (4) (cm) 7r. g. of the statutes is amended to read:

6 111.70 (4) (cm) 7r. g. The average consumer prices for goods and services,  
7 commonly known as the cost of living, including specifically average housing costs  
8 and other costs significantly affecting the quality of life.

9 **SECTION 16.** 111.70 (4) (cm) 7r. h. of the statutes is amended to read:

10 111.70 (4) (cm) 7r. h. The overall compensation presently received by the  
11 municipal employees, including direct wage compensation, vacation, holidays, and  
12 excused time, insurance and pensions, medical and hospitalization benefits, the  
13 continuity and stability of employment, and all other benefits received. In making  
14 this comparison, the arbitrator or arbitration panel shall consider wages, hours, and  
15 conditions of employment as a whole, rather than as individual elements.

16 **SECTION 17.** 111.70 (4) (jm) 4m. of the statutes is created to read:

17 111.70 (4) (jm) 4m. For the purpose of setting wages and determining hours and  
18 conditions of employment under subd. 4., if the arbitrator compares the wages,  
19 hours, and conditions of employment with the wages, hours, and conditions of  
20 employment of other employees performing similar services or in the same  
21 community or comparable communities, the arbitrator shall consider wages, hours,  
22 and conditions of employment as a whole, rather than as individual elements.

23 **SECTION 18.** 111.70 (4) (n) of the statutes is created to read:

24 111.70 (4) (n) *Municipal employer-initiated change in health care coverage*  
25 *plan provider.* 1. Notwithstanding the terms of a collective bargaining agreement,

**BILL**

1 a municipal employer may unilaterally change its employees' health care coverage  
2 plan provider without the consent of any affected employee in the collective  
3 bargaining unit if the benefits provided by the new health care coverage plan  
4 provider are substantially similar to those provided by the former health care  
5 coverage plan provider and if either the persons who provide health care coverage  
6 under the new plan are the same as under the former plan or cost savings will result  
7 from changing the health care coverage plan provider. Any such unilateral change  
8 in health care coverage plan provider is not a violation of a collective bargaining  
9 agreement or a prohibited practice under sub. (3) (a) and, for purposes of a qualified  
10 economic offer, satisfies the requirement to maintain fringe benefits under sub. (1)  
11 (nc).

12 2. Any moneys saved by a municipal employer as a result of a change in health  
13 care coverage plan provider under subd. 1. shall be used to increase the wages paid  
14 to the affected employees during the period covered by their collective bargaining  
15 agreement and wage-related costs resulting from the increase in wages. Any such  
16 increase in wages and wage-related costs by the municipal employer is not a  
17 prohibited practice under sub. (3) (a).

18 **SECTION 19.** 111.70 (4) (o) of the statutes is created to read:

19 111.70 (4) (o) *Prohibited subject of collective bargaining.* A municipal employer  
20 is prohibited from bargaining collectively with respect to the employer's selection of  
21 a health care coverage plan if the municipal employer offers to enroll the employees  
22 in a health care coverage plan under s. 40.51 (7) or in a health care coverage plan that  
23 is substantially similar to a plan offered under s. 40.51 (7). The commission shall use  
24 the criteria in rules promulgated by the commissioner of insurance under s. 601.41  
25 (12) to determine if health care coverage plans are substantially similar.



**BILL****SECTION 20**

1       **SECTION 20.** 111.77 (6) (dm) of the statutes is created to read:

2       111.77 (6) (dm) In making the comparison of wages, hours, and conditions of  
3       employment under par. (d), the arbitrator shall consider wages, hours, and  
4       conditions of employment as a whole, rather than as individual elements.

5       **SECTION 21.** 601.41 (10) of the statutes is created to read:

6       601.41 (10) LOCAL GOVERNMENT HEALTH CARE COVERAGE REQUEST-FOR-PROPOSALS  
7       FORM. The commissioner shall by rule develop a uniform local government health  
8       care coverage request-for-proposals form that a local governmental unit must use  
9       under s. 66.0137 (5) (b) if the local governmental unit solicits bids for health care  
10       coverage. The commissioner shall publish a notice in the Wisconsin administrative  
11       register that states the effective date of the rule required under this subsection.

12       **SECTION 22.** 601.41 (11) of the statutes is created to read:

13       601.41 (11) LOCAL GOVERNMENT HEALTH CARE CLAIMS EXPERIENCE FORM. The  
14       commissioner shall by rule develop a uniform local government health claims  
15       experience form that an insurer must use under s. 632.797 (1) (d). The form may not  
16       require the disclosure of information that identifies an individual or that is  
17       confidential under s. 51.30, 146.82, or 252.15 or any applicable federal law. The  
18       commissioner shall publish a notice in the Wisconsin administrative register that  
19       states the effective date of the rule required under this subsection.

20       **SECTION 23.** 601.41 (12) of the statutes is created to read:

21       601.41 (12) SUBSTANTIALLY SIMILAR HEALTH CARE COVERAGE PLAN. The  
22       commissioner shall promulgate rules that set out a standardized summary of  
23       benefits provided under health care coverage plans, including plans offered under  
24       s. 40.51 (7), for use in determining whether a health care coverage plan is  
25       substantially similar to a plan offered under s. 40.51 (7).

**BILL**

1       **SECTION 24.** 610.66 of the statutes is created to read:

2       **610.66 Local government health care coverage request-for-proposals**

3       **form.** Every insurer shall use the uniform local government health care coverage  
4       request-for-proposals form developed by the commissioner under s. 601.41 (10)  
5       when submitting a bid to a local governmental unit under s. 66.0137 (5) (b).

6       **SECTION 25.** 632.797 (1) (d) of the statutes is created to read:

7       632.797 (1) (d) 1. In this paragraph, "local governmental unit" has the meaning  
8       given in s. 66.0137 (1).

9       2. A policyholder or employer that is a local governmental unit and that  
10      requests information under par. (a) that an insurer is required to provide under this  
11      section shall notify the department of administration when it makes the request for  
12      the information.

13      3. An insurer that is required to provide the information under par. (a) to a local  
14      governmental unit shall also provide the information to the department of  
15      administration at the same time as the insurer provides the information to the local  
16      governmental unit.

17      4. The insurer shall use the uniform local government health claims experience  
18      form developed by the commissioner under s. 601.41 (11) to submit the claims  
19      experience information to the local governmental unit and to the department of  
20      administration.

21      5. If the insurer fails to provide the information to the department of  
22      administration by the deadline specified in par. (b), the department of  
23      administration may report the failure to the commissioner.

24      **SECTION 26.** 632.797 (5) of the statutes is amended to read:

**BILL****SECTION 26**

1           632.797 (5) An insurer is not required under sub. (1) to provide information  
2           that identifies an individual or that is confidential under s. 51.30, 146.82, or 252.15  
3           or any applicable federal law.

**SECTION 27. Nonstatutory provisions.****(1) GROUP INSURANCE BOARD STUDY.**

6           (a) The group insurance board shall consult with representatives of group  
7           insurance plans regarding the feasibility of developing the following plans for  
8           employers to offer their employees under section 40.51 (7) of the statutes:

9           1. A group health insurance plan with at least 3 cost levels, for the purpose of  
10           offering a greater choice of plans based on cost to employers and employees.

11           2. A low-cost health insurance plan that provides coverage for catastrophic  
12           illness or injury.

13           (b) The group insurance board shall report its findings under paragraph (a) to  
14           the governor and to the legislature in the manner provided under section 13.172 (2)  
15           of the statutes no later than July 1, 2007.

16           (2) SUBMISSION OF RULES. The commissioner of insurance shall submit in  
17           proposed form the rules required under section 601.41 (10) and (11) of the statutes,  
18           as created by this act, to the legislative council staff under section 227.15 (1) of the  
19           statutes no later than the first day of the 4th month beginning after the effective date  
20           of this subsection.

**SECTION 28. Initial applicability.**

22           (1) The treatment of sections 62.61 (2) and (3), 66.0137 (5) (b) and (c), and  
23           610.66 of the statutes first applies to bids solicited by a local governmental unit on  
24           the first day of the 3rd month beginning after the date stated in the notice published

**BILL**

1 by the commissioner of insurance in the Wisconsin Administrative Register under  
2 section 601.41 (10) of the statutes.

3 (2) The treatment of section 111.70 (1) (a) and (4) (n) and (o) of the statutes first  
4 applies to collective bargaining agreements entered into, extended, modified, or  
5 renewed, whichever occurs first, on the effective date of this subsection.

6 (3) The treatment of sections 111.70 (4) (c) 2m., (cm) 7r. d., 7r. e., 7r. f., 7r. g.,  
7 and 7r. h., and (jm) 4m. and 111.77 (6) (dm) of the statutes first applies to an  
8 arbitration decision that results from a petition for arbitration submitted on the  
9 effective date of this subsection.

10 (4) The treatment of section 632.797 (1) (d) of the statutes first applies to  
11 requests for health claims experience information made by a local governmental unit  
12 on the first day of the 3rd month beginning after the date stated in the notice  
13 published by the commissioner of insurance in the Wisconsin administrative register  
14 under section 601.41 (11) of the statutes.

15

(END)

**Barman, Mike**

---

**From:** Murray, Ryan M.

**Sent:** Wednesday, May 11, 2005 10:48 AM

**To:** LRB.Legal

**Subject:** Draft review: LRB 05-1721/1 Topic: Prohibited subjects of collective bargaining under MERA

It has been requested by <Murray, Ryan M.> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-1721/1 Topic: Prohibited subjects of collective bargaining under MERA

05/11/2005



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-1721/1/2  
RAC/CMH/PJK:wlj:jjf

Today

2005 BILL

RMB

reg. cat.

- 1 AN ACT *to amend* 111.70 (1) (a); and *to create* 111.70 (4) (n), 111.70 (4) (o) and  
2 601.41 (12) of the statutes; **relating to:** collective bargaining over health care  
3 coverage for municipal employees and allowing municipal employers to change  
4 health care coverage plan providers.

***Analysis by the Legislative Reference Bureau***

Under the Municipal Employment Relations Act (MERA), all matters relating to wages, hours, and conditions of employment are subject to collective bargaining. This bill prohibits bargaining over the selection of a health care coverage plan if the employer offers to enroll its employees in a plan provided to local government employers by the Group Insurance Board or in a plan that is substantially similar to the plan offered by the Group Insurance Board. Under the bill, the Office of the Commissioner of Insurance must promulgate rules that set out standardized benefits under health care coverage plans and that may be used for determining whether any health care coverage plan is similar to the plan offered by the Group Insurance Board.

In addition, the bill provides that under MERA any employer may unilaterally change its employees' health care coverage plan provider if the benefits remain substantially the same and if either the actual providers of the health care are the same or cost savings will result from changing the health care coverage plan provider. The bill requires, however, ~~that any employer savings that result from changing the health care coverage plan provider must be used to increase salaries paid to the employees affected by the change.~~

Not  
Insert  
Analysis

**BILL**

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1       **SECTION 1.** 111.70 (1) (a) of the statutes is amended to read:

2       111.70 (1) (a) "Collective bargaining" means the performance of the mutual  
3       obligation of a municipal employer, through its officers and agents, and the  
4       representative of its municipal employees in a collective bargaining unit, to meet and  
5       confer at reasonable times, in good faith, with the intention of reaching an  
6       agreement, or to resolve questions arising under such an agreement, with respect to  
7       wages, hours, and conditions of employment, and with respect to a requirement of  
8       the municipal employer for a municipal employee to perform law enforcement and  
9       fire fighting services under s. 61.66, except as provided in sub. (4) (m), (n), and (o) and  
10      s. 40.81 (3) and except that a municipal employer shall not meet and confer with  
11      respect to any proposal to diminish or abridge the rights guaranteed to municipal  
12      employees under ch. 164. The duty to bargain, however, does not compel either party  
13      to agree to a proposal or require the making of a concession. Collective bargaining  
14      includes the reduction of any agreement reached to a written and signed document.  
15      The municipal employer shall not be required to bargain on subjects reserved to  
16      management and direction of the governmental unit except insofar as the manner  
17      of exercise of such functions affects the wages, hours, and conditions of employment  
18      of the municipal employees in a collective bargaining unit. In creating this  
19      subchapter the legislature recognizes that the municipal employer must exercise its  
20      powers and responsibilities to act for the government and good order of the  
21      jurisdiction which it serves, its commercial benefit, and the health, safety and

**BILL**

1 welfare of the public to assure orderly operations and functions within its  
2 jurisdiction, subject to those rights secured to municipal employees by the  
3 constitutions of this state and of the United States and by this subchapter.

4 **SECTION 2.** 111.70 (4) (n) of the statutes is created to read:

5 111.70 (4) (n) *Municipal employer-initiated change in health care coverage*  
6 *plan provider.* 1. Notwithstanding the terms of a collective bargaining agreement,  
7 a municipal employer may unilaterally change its employees' health care coverage  
8 plan provider without the consent of any affected employee in the collective  
9 bargaining unit if the benefits provided by the new health care coverage plan  
10 provider are substantially similar to those provided by the former health care  
11 coverage plan provider and if either the persons who provide health care coverage  
12 under the new plan are the same as under the former plan or cost savings will result  
13 from changing the health care coverage plan provider. Any such unilateral change  
14 in health care coverage plan provider is not a violation of a collective bargaining  
15 agreement or a prohibited practice under sub. (3) (a) and, for purposes of a qualified  
16 economic offer, satisfies the requirement to maintain fringe benefits under sub. (1)  
17 (nc).

~~18 2. Any moneys saved by a municipal employer as a result of a change in health  
19 care coverage plan provider under subd. 1. shall be used to increase the wages paid  
20 to the affected employees during the period covered by their collective bargaining  
21 agreement and wage-related costs resulting from the increase in wages. Any such  
22 increase in wages and wage-related costs by the municipal employer is not a  
23 prohibited practice under sub. (3) (a).~~

24 **SECTION 3.** 111.70 (4) (o) of the statutes is created to read:

Insert 3-24



# BILL

111.70 (4) (o) *Prohibited subject of collective bargaining.* A municipal employer is prohibited from bargaining collectively with respect to the employer's selection of a health care coverage plan if the municipal employer offers to enroll the employees in a health care coverage plan under s. 40.51 (7) or in a health care coverage plan that is substantially similar to a plan offered under s. 40.51 (7). The commission shall use the criteria in rules promulgated by the commissioner of insurance under s. 601.41 (12) to determine if health care coverage plans are substantially similar.

**SECTION 4.** 601.41 (12) of the statutes is created to read:

**601.41 (12)** SUBSTANTIALLY SIMILAR HEALTH CARE COVERAGE PLAN. The commissioner shall promulgate rules that set out a standardized summary of benefits provided under health care coverage plans, including plans offered under s. 40.51 (7), for use in determining whether a health care coverage plan is substantially similar to a plan offered under s. 40.51 (7).

## SECTION 5. Initial applicability.

(1) The treatment of section 111.70 (1) (a) and (4) (n) and (o) of the statutes first applies to collective bargaining agreements entered into, extended, modified, or renewed, whichever occurs first, on the effective date of this subsection.

(END)

1 governments; convening a task force to conduct a feasibility study on forming  
2 a state pool for the bulk purchasing of prescription drugs; disclosure of health  
3 insurance claims experience of local governmental units; bids submitted to  
4 local governmental units for health insurance; requiring the Commissioner of  
5 Insurance to promulgate rules establishing uniform forms for local government  
6 health care coverage requests for proposals and health claims experience and  
7 summarizing benefits provided under health care benefit plans; and granting  
8 rule-making authority.

---

***Analysis by the Legislative Reference Bureau***

This substitute amendment makes several changes to health insurance plans and other benefits offered to local government employees.

***Collective bargaining***

Under the Municipal Employment Relations Act (MERA), all matters relating to wages, hours, and conditions of employment are subject to collective bargaining. This substitute amendment provides that local governmental employers, with the exception of school district employers with respect to their professional employees, are prohibited from bargaining over the selection of a health care coverage plan if the employer offers to enroll its employees in a plan provided to local government employers by the Group Insurance Board or in a plan that is substantially similar to the plan offered by the Group Insurance Board. Under the substitute amendment, the Office of the Commissioner of Insurance (OCI) must promulgate rules that set out standardized benefits under health care coverage plans and that may be used for determining whether any health care coverage plan is similar to the plan offered by the group insurance board.

In addition, the substitute amendment provides that under MERA any employer may unilaterally change its employees' health care coverage plan provider if the benefits remain substantially the same and the actual providers of the health care are the same. The substitute amendment requires, however, that 50% of the net savings that accrue to the employer as a result of changing the health care coverage plan provider must be used to increase the wages paid to the employees affected by the change, <sup>and</sup> the pay wage-related costs incurred by the employer for those employees in the 12-month period following the effective date of the change.

Under MERA, for labor disputes that go to arbitration, the arbitrator or arbitration panel must consider a variety of factors, some of which are given "greatest weight"; some of which are given "greater weight"; and some of which must simply be considered. Among the factors that must simply be considered are the wages, hours, and conditions of employment of employees providing similar services

Analysis  
Text →

1 plan provider without the consent of any affected employee in the collective  
2 bargaining unit if the benefits provided by the new health care coverage plan  
3 provider are substantially similar to those provided by the former health care  
4 coverage plan provider and if the persons who provide health care coverage under  
5 the new plan are the same as under the former plan. Any such unilateral change in  
6 health care coverage plan provider is not a violation of a collective bargaining  
7 agreement or a prohibited practice under sub. (3) (a) and, for purposes of a qualified  
8 economic offer, satisfies the requirement to maintain fringe benefits under sub. (1)  
9 (nc).

10 2. A municipal employer shall use 50% of the net savings that accrue to the  
11 municipal employer as a result of a change in health care coverage plan provider  
12 under subd. 1. to increase the wages paid to the affected municipal employees and  
13 to pay wage-related costs incurred by the municipal employer for those municipal  
14 employees during the 12-month period following the effective date of the change.  
15 The payment of any such increase in wages and wage-related costs by the municipal  
16 employer is not a prohibited practice under sub. (3) (a).

17 **SECTION 19.** 111.70 (4) (o) of the statutes is created to read:

18 111.70 (4) (o) *Prohibited subject of collective bargaining.* 1. A municipal  
19 employer is prohibited from bargaining collectively with respect to the employer's  
20 selection of a health care coverage plan if the municipal employer offers to enroll the  
21 employees in a health care coverage plan under s. 40.51 (7) or in a health care  
22 coverage plan that is substantially similar to a plan offered under s. 40.51 (7). The  
23 commission shall use the criteria in rules promulgated by the commissioner of  
24 insurance under s. 601.41 (12) to determine if health care coverage plans are  
25 substantially similar.